

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

14-MD-2543 (JMF)

GENERAL MOTORS LLC IGNITION SWITCH LITIGATION

This Document Relates To:
Smith v. General Motors LLC, 16-CV-7335
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ORDER OF DISMISSAL

JESSE M. FURMAN, United States District Judge:

On November 6, 2020, New GM filed a notice identifying Plaintiff Kenneth Smith as having allegedly failed to submit substantially complete plaintiff fact sheets (“PFSs”) or document productions as required by Order No. 25, ECF No. 422; Order No. 108, ECF No. 3115; and Order No. 148, ECF No. 5366. *See* ECF No. 8237.¹ Pursuant to Order No. 173, ECF No. 8094, Smith had fourteen days — that is, until November 20, 2020 — to cure any defects. On December 14, 2020, following a meet-and-confer and the expiration of an extension the parties had agreed to, New GM moved to dismiss Smith’s claims without prejudice for ongoing discovery deficiencies. *See* ECF No. 8295. On January 4, 2021, New GM filed a reply in support of their motion reiterating that Smith had not provided additional discovery materials since the identification of his deficiencies. ECF No. 8317. To date, Smith has not otherwise responded to New GM’s identification of his discovery deficiencies.

Meanwhile, on December 7, 2020, New GM filed a notice identifying Smith’s claims as barred by Florida’s statute of repose. ECF No. 8291. To date, Smith has not responded to New GM’s identification of his claims as barred by the statute of repose.

¹ All docket references are to 14-MD-2543 unless otherwise noted.


Accordingly, in light of Smith's continued failure to submit substantially complete PFSs or document productions as required by Order No. 25, Order No. 108, and Order No. 148, Smith's claims are hereby DISMISSED *without* prejudice. Should Plaintiff Smith submit all required documentation within the next thirty days, or otherwise contest this dismissal, he may move to vacate the dismissal **within 30 days of the date of this order**, pursuant to Paragraph 25 of Order No. 25. **In any motion to vacate this dismissal, Smith shall also show cause why his claims are not barred by Florida's statute of repose and/or why New GM's notice to the effect that they are should not be treated as unopposed.**

The Clerk of Court is directed to terminate 14-MD-2543, ECF No. 8295 and 16-CV-7335, ECF No. 121.

Because Plaintiff Smith still has an opportunity to vacate his dismissal, the Clerk of Court is directed *not* to terminate Kenneth Smith or to close his case at this time.

SO ORDERED.

Dated: January 11, 2021
New York, New York



JESSE M. FURMAN
United States District Judge